

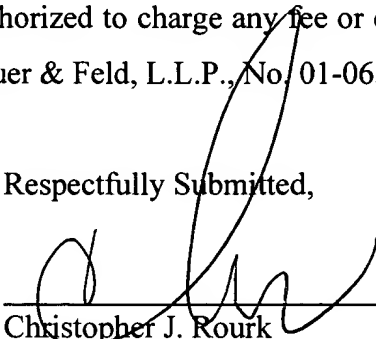


telephone interview, the Examiner is invited to telephone the undersigned at (214) 969-4669 so that such issues may be resolved as expeditiously as possible.

A fee in the amount of \$1440.00 for an extension of time to respond within the fourth month is believed to be due with this Response, and Applicants hereby petition the Commissioner for the four month extension of time. If any applicable fee or refund has been overlooked, the Commissioner is hereby authorized to charge any fee or credit any refund to the deposit account of Akin, Gump, Strauss, Hauer & Feld, L.L.P., No. 01-0657.

Respectfully Submitted,

Date: January 17, 2002

  
\_\_\_\_\_  
Christopher J. Rourke  
Reg. No. 39,348  
ATTORNEY FOR APPLICANT

Akin, Gump, Strauss, Hauer & Feld, L.L.P.  
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AUSTIN, TX 78701

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JUL 18 2001

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In re Application of  
NIR TAL, ET AL.  
Application No. 09/771010  
Filing date: January 26, 2001  
For: COMMUNICATION SYSTEM  
WHICH DYNAMICALLY SWITCHES  
SIZES OF SAMPLE BUFFER BETWEEN  
FIRST SIZES FOR QUICK RESPONSE  
TIME AND SECOND SIZE FOR  
ROBUSTNESS TO INTERRUPT  
LATENCY

:  
:  
: DECISION REFUSING STATUS  
: UNDER 37 CFR §1.47(a)  
:

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JUL 23 2001

Docket y  
Action  
Due date

*Handwritten:* Missing Docs  
9/18/01

This is in response to the renewed "Petition Under 37 CFR §1.47(a)," filed on April 17, 2001.

The petition is dismissed.

A grantable petition under 37 CFR §1.47 (a) requires:

- (1) proof that the signing inventor cannot be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

The Petitioner lacks item (1) and (2) set forth above.

In order to establish a bona fide diligent effort pursuant to 37 CFR §1.47 (a), Petitioner must demonstrate the diligent effort to reach the inventor. Petitioner has shown that correspondence was mailed to Mr. Ron Cohen but returned as undeliverable. In addition, an e-mail to Sharley Torri from Eti De-Leon states that "I can approach him because he is sitting in offices across our offices." Given that Mr. Cohen can be reached via Eti De-Leon, applicant has failed to demonstrate that Mr. Cohen cannot be reached.

As to item (2), both available inventors must make the declaration on behalf of joint inventor Cohen. A declaration signed by joint inventor Tal on behalf of Cohen is also required.

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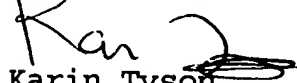
Further correspondence with respect to this matter should be addressed as follows:

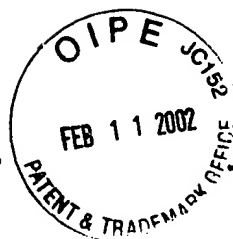
By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By fax: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza Four, Suite 3C23  
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-3159.

  
Karin Tyson  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
For Patent Policy and Projects



Attorney Docket No. 97RSS561RE

**DECLARATION AND POWER OF ATTORNEY BY INVENTOR**  
**(Reissue Application)**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed in patent number 5,864,714, granted January 26, 1999, and for which a reissue patent is sought on the invention entitled:

**COMMUNICATION SYSTEM WHICH DYNAMICALLY SWITCHES SIZES OF  
SAMPLE BUFFER BETWEEN FIRST SIZE FOR QUICK RESPONSE TIME  
AND SECOND SIZE FOR ROBUSTNESS TO INTERRUPT LATENCY**

the specification of which was filed on April 16, 1996 as U.S. patent application No. 08/632,931.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to herein.

I acknowledge the duty to disclose information which is material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**FOREIGN PRIORITY APPLICATION(S)**

None	<u>Priority Claimed</u>	[ ] Yes [ ] No
(Number)	(Country)	(Day/month/year filed)

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I verily believe the original patent to be wholly or partially inoperative or invalid, by reason of the patentee claiming more or less than he had the right to claim in the patent. At least one excess or insufficiency in the original claims involves unduly narrow reference the balance between response time and system latency.

Applicant discovered that the claims of the issued patent do not adequately cover articles of manufacture. Applicant hereby indicates her intent to broaden the claims in this reissue application.

All errors sought to be corrected in this reissue application up to the time of filing this declaration arose without any deceptive intention on my part or on the part of the applicant.

And I hereby appoint the registered attorneys and agents associated with Akin, Gump, Strauss, Hauer & Feld, L.L.P., Customer No. 000570, as my attorneys or agents with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Address all correspondence to **Customer No. 020790, namely, Akin, Gump, Strauss, Hauer & Feld, L.L.P., Frost Bank Plaza, 816 Congress, Suite 1900, Austin, Texas 78701. Please direct all communications and telephone calls to Russell C. Scott at (512) 499-6200.**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

**First Named Inventor**

Inventor: Nir Tal

Inventor's Signature \_\_\_\_\_

Date \_\_\_\_\_

Residence Haifa, Israel

Citizenship Israeli

Post Office Address: 21 Ha'asif Street, Haifa 34637, Israel

**Second Named Inventor**

Inventor: Ron Cohen

Inventor's Signature \_\_\_\_\_

Date 17/1/02

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**Third Named Inventor**

Inventor: Zeev Collin

Inventor's Signature \_\_\_\_\_

Date \_\_\_\_\_

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Citizenship Israeli

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**First Named Inventor**

Inventor: Nir Tal

Inventor's Signature Nir Tal

Date 3-31-01

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Inventor: Ron Cohen

Inventor's Signature \_\_\_\_\_

Date \_\_\_\_\_

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Inventor: Zeev Collin

Inventor's Signature Z. Collin

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**First Named Inventor**

Inventor: Nir Tal

Inventor's Signature \_\_\_\_\_

Date \_\_\_\_\_

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**Second Named Inventor**

Inventor: Ron Cohen

Inventor's Signature \_\_\_\_\_

Date \_\_\_\_\_

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**Third Named Inventor**

Inventor: Zeev Collin

Inventor's Signature Z. Collin

Date 3/26/01

Residence Irvine, CA

Citizenship Israeli

Post Office Address: 15 Clove Blossom; Irvine, CA 92604